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CHRISTIE, PARKER & HALE, LLP
350 WEST COLORADO BOULEVARD
POST OFFICE BOX 7068
PASADENA, CA 91109-7068

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JAN 28 2002

OFFICE OF PETITIONS

In re Application of	:	
Samueli, et al.	:	DECISION ON
Application No. 09/819,049	:	PETITION
Received: January 20, 1998	:	
Title: SYSTEM FOR, AND METHOD OF,	:	
PROCESSING QUADRATURE AMPLITUDE	:	
MODULATED SIGNALS	:	

This is a decision on the petition filed June 5, 2000, and the supplement filed on June 15, 2001, requesting that a continued prosecution application (CPA) under 37 CFR 1.53(d) based on prior application No. 08/285,504 be treated as an application filed under 37 CFR 1.53(b) and be accorded a filing date of January 20, 1998. The original petition cannot be located. Therefore, this decision is based on the duplicate petition filed on December 1, 2000.

Receipt is acknowledged of a "Second Preliminary Amendment", a request (in duplicate) for a CPA of prior application No. 08/285,504, and what appears to be an incomplete copy of the specification filed in the prior application filed on August 19, 1998.¹

All of the papers identified above have been assigned application No. 09/819,049 for identification purposes. All future correspondence concerning the continuing application filed on January 20, 1998, should be directed to that application number, not to application No. 08/285,504.

The supplement filed on June 15, 2001, includes a copy of applicants' postcard receipt acknowledging receipt on January 20, 1998, of a "Continued Prosecution Application" and a copy of a transmittal letter requesting the filing of a continuation application of prior application No. 08/285,504. USPTO records

¹ The copy comprises pages 1-20, 39-51 and two pages of abstract.

also show that a CPA filing fee of \$652.00 was paid in prior application No. 08/285,504 on January 20, 1998. The original transmittal letter cannot be located in the file of prior application No. 08/285,504. However, the evidence presented is persuasive that a request for a CPA was filed on January 20, 1998, and subsequently misplaced in the USPTO.

USPTO records also show that the issue fee was paid in the prior application on November 27, 1997. A CPA must be filed before the payment of the issue fee on the prior application. See 37 CFR 1.53(d). Since the issue fee was paid on the prior application before the CPA request was filed and the prior application has now issued as a patent, the CPA request cannot be processed as a proper CPA.

The present petition requests that the CPA request be treated as an application filed under 37 CFR 1.53(b).

A petition to accept and treat an improper application filed under 37 CFR 1.53(d) as a proper application under 37 CFR 1.53(b) must include: (1) the \$130.00 petition fee; and (2) a copy of the complete nonprovisional application, as filed, designated as the prior nonprovisional application in the application papers filed under 37 CFR 1.53(d). The petition filed June 15, 2000, is not accompanied by a copy of the prior complete application as originally filed, including the specification, drawings and signed oath/declaration.

Accordingly, the petition is dismissed.

However, this decision is made without prejudice to reconsideration upon the filing of a request therefor accompanied by a copy of the prior application as originally filed. A copy of the preliminary amendment filed on January 20, 1998, and the power of attorney filed on June 5, 2000, should also be supplied.

The \$130.00 petition fee will be charged to deposit account No. 06-2425 in due course, as authorized in the transmittal letter filed on January 20, 1998. USPTO records will also be corrected to show that the \$652.00 filing fee paid on January 20, 1998, in application No. 08/285,504, was actually paid in application No. 09/819,049.

Any request for reconsideration should be filed within **TWO MONTHS** of the date of this decision in order to be considered timely. See 37 CFR 1.181(f). This time period is not extendable under 37 CFR 1.136.

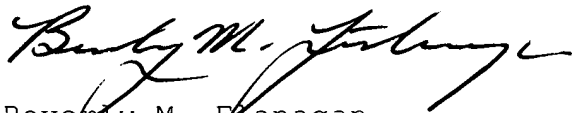
Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
Box DAC
Washington, DC 20231
ATTN: Nancy Johnson

By FAX: (703) 308-6916
Attn: Office of Petitions
Nancy Johnson

By hand: Office of Petitions
2201 South Clark Place
Crystal Plaza 4, Suite 3C23
Arlington, VA
ATTN: Nancy Johnson

Telephone inquiries related to this decision should be directed to Petitions Attorney Nancy Johnson at (703) 305-0309.



Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy